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[REDACTED] EXAMINER

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ART UNIT	PAPER NUMBER
	2622

DATE MAILED: 06/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/916,894	BREWSTER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Joseph R. Pokrzywa	2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 01 April 2005.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-22 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Response to Amendment*

1. Applicant's amendment was received on 4/1/05, and has been entered and made of record. Currently, **claims 1-22** are pending.

### *Response to Arguments*

2. Applicant's arguments filed 4/1/05, regarding the rejections, which were cited in the Office action dated 1/26/05, of independent **claims 1, 9, 12, and 21**, being anticipated by Smith *et al.*, as well as independent **claims 1 and 12**, being anticipated by Dietz, have been fully considered but they are not persuasive.
3. In response to applicant's arguments regarding the rejection of **claim 1** to Smith *et al.*, whereby applicant argues on pages 11 and 12, that Smith fails to teach of a response system that monitors activity level around a physical location of a publication delivery system. As read in column 7, lines 25-40, Smith states that "The receiving computer 48 monitors its connection to the FM subcarrier receiver 47 until it begins receiving the data stream. It then monitors the incoming data stream until it detects the synchronization sequence." Thus the FM sub carrier receiver 47 can be interpreted as monitoring the activity level around the physical location of the publication delivery system 45, seen in Fig. 1.

Continuing, applicant argues on page 12, that Smith fails to disclose that timing and number of printed publications printed by the printing mechanism are based on the activity level detected by a response system. As discussed above, Smith teaches that the activity level of the

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data signals is monitored by the FM subcarrier receiver 47, as read in column 7, lines 34-57.

With this, Smith teaches that timing of the publications and the number of printed publications is based on the detected activity level, as read in column 5, lines 24-46, and column 7, line 41-column 8, line 65. Particularly, in column 8, lines 27-33. Smith teaches that the timing of the publications is based on the monitored level of activity, wherein the “receiver checks the data stream to ensure that it receives the end of data block and synchronization sequences. If it does it restarts the receive process. Otherwise, it again begins monitoring the data stream for the synchronization sequence.” Further in column 5, lines 24-46, Smith teaches that the number of printed publications is based on the monitored activity level, wherein “the visible copy 46 reproduced from files extracted from the data flow stream received at the radio receiver unit 47 and stored in the computer 48 for reproduction upon a viewing screen or printer.”

Therefore, the rejection of claim 1, as cited in the previous Office action as being anticipated by Smith *et al.*, is maintained and repeated in this Office action.

4. In response to applicant’s arguments regarding the rejection of **claim 1** to Deitz, whereby applicant argues on page 13, that Deitz fails to teach of a response system that monitors activity level around a physical location of a publication delivery system. As read in column 4, lines 35-column 5, line 36, Deitz teaches that cameras are triggered in various ways. Subsequently, the images captured by the triggered camera are received at the picture retrieval station 210, where the images are printed via printer 213, as read in column 6, lines 34-60. Thus, the triggering mechanisms monitor the activity level around a physical location of a publication delivery system.

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Continuing, applicant argues on page 13, that Deitz fails to disclose that timing and number of printed publications printed by the printing mechanism are based on the activity level detected by a response system. As discussed above, Deitz teaches in column 5, lines 55-67 that cameras are triggered by guests or by a time based trigger, thereby teaching that the timing of the printed publications is based on the monitored activity level. Continuing, Deitz teaches in column 6, lines 34-67 that the number of printed publications printed by the printing mechanism are based on the activity level detected by a response system, whereby the printer prints the number of images captured by a triggered camera.

Therefore, the rejection of claim 1, as cited in the previous Office action as being anticipated by Deitz, is maintained and repeated in this Office action.

5. In response to applicant's arguments regarding the rejection of **claim 9** to Smith *et al.*, whereby applicant argues on pages 14 and 15, that Smith fails to teach of checking a time stamp on a most recently printed publication stored in a storage area. Further applicant argues that Smith fails to teach of determining whether a fresher version of the printed publication is electronically available. As read in column 5, lines 34-40, Smith teaches that the "subscriber station representation 45 "reproducing visually the newspaper copy 15 being transmitted into the visible copy 46 reproduced from files extracted from the data flow stream received at the radio receiver unit 47 and stored in the computer 48 for reproduction upon a viewing screen or printer." Thus, the visible copy 46, as seen in Fig. 1, is printed by the printer, being extracted from the received data stream, so as to be viewed by the subscriber, as well as being stored in the computer. With this, Smith further teaches in column 7, line 58-column 8, line 26 that "the

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receiving software compares the received date with the date of the file already stored on the receiving computer 48". This comparison is used to determine whether a fresher version of the publication is available, as read in column 8, lines 58-62.

Continuing, applicant argues on pages 15 and 16 that Smith fails to teach of seeking or receiving from a customer an indication that the customer is willing to wait for a fresher version of a printed publication to be printed out for delivery. As read in column 5, lines 40-46, Smith teaches that "those portions of the original copy 15 that the subscriber wants may be selected for storage and viewing (46) in the subscriber's computer system 48, which has a corresponding local software for interactively selecting and storing those files of the subscriber's choice." Further, in column 8, lines 49-65, Smith teaches that "when newspapers from past days are stored, it is a requirement of the viewer software that it be able to distinguish by means of data files in the database between different sets of data streams. In this preferred embodiment the structure, content and nature of the relationship between files is established for the viewing software by data files transmitted". Thus, a user can select, using the viewing software, whether they would want a version stored in the memory of the computer. If there is no selection, the system inherently receives an indication that the customer is willing to wait for a fresher version.

Therefore, the rejection of claim 9, as cited in the previous Office action as being anticipated by Smith *et al.*, is maintained and repeated in this Office action.

6. In response to applicant's arguments regarding the rejection of **claim 12** to Smith *et al.*, whereby applicant argues on page 17, that Smith fails to teach of monitoring activity level around a physical location of a publication delivery system. As discussed above, Smith teaches

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that the FM sub carrier receiver 47 can be interpreted as monitoring the activity level around the physical location of the publication delivery system 45, seen in Fig. 1. Continuing, applicant argues on pages 17 and 18 that Smith fails to teach that in response to detection of increased activity level around the physical location of the automated publication delivery system, additional copies of the publication are printed for distribution. Smith teaches in column 5, lines 24-46 that the number of printed publications is based on the monitored activity level, wherein “the visible copy 46 reproduced from files extracted from the data flow stream received at the radio receiver unit 47 and stored in the computer 48 for reproduction upon a viewing screen or printer.” Thus, if more files are received based on the monitored activity level, more files are printed by the printer of viewing computer 48.

Therefore, the rejection of claim 12, as cited in the previous Office action as being anticipated by Smith *et al.*, is maintained and repeated in this Office action.

7. In response to applicant’s arguments regarding the rejection of **claim 12** to Deitz, whereby applicant argues on pages 18 and 19, that Deitz fails to teach of a response system that monitors activity level around a physical location of a publication delivery system, as well as failing to teach that in response to detection of an increased activity level around the physical location of the automated publication delivery system, additional copies of the publication are printed for distribution. As discussed above, the triggering devices taught in column 4, line 35-column 5, line 67, can be interpreted as a response system that monitors the activity level around a physical location. Further, as discussed above, in column 6, lines 34-67, Deitz teaches that the number of printed publications printed by the printing mechanism are based on the activity level

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detected by a response system, whereby the printer prints the number of images captured by a triggered camera. Thus, if more images are captured based on the trigger, being the monitored activity level, more images are printed by the printer 213 of station 210.

Therefore, the rejection of claim 12, as cited in the previous Office action as being anticipated by Deitz, is maintained and repeated in this Office action.

8. In response to applicant's arguments regarding the rejection of **claim 21** to Smith *et al.*, whereby applicant argues on pages 19-22, that Smith fails to teach of monitoring the activity level around a physical location of a publication delivery system, that Smith fails to teach if the timing and number of printed publications printed by a printing mechanism are based on the activity detected by a response system, and that Smith fails to teach of reading a time stamp on a most recent printed publication. Each of these arguments were addressed above in the discussions related to claims 1 and 9.

Therefore, for the same reasons discussed above, the rejection of claim 21, as cited in the previous Office action as being anticipated by Smith *et al.*, is maintained and repeated in this Office action.

9. Therefore, the rejections, as cited in the Office action dated 1/26/05, under 35 U.S.C.102 of independent **claims 1, 9, 12, and 21** as being anticipated by Smith et al., and of independent **claims 1 and 12** as being anticipated by Deitz, are maintained and repeated in this Office action.

***Claim Rejections - 35 USC § 102***

10. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
11. **Claims 1, 2, 6, 7, 9, 10, 12, 13, 17, 18, and 20-22** are rejected under 35 U.S.C. 102(b) as being anticipated by Smith *et al.* (U.S. Patent Number 5,630,103, cited in the Office action dated 1/26/05).

Regarding **claim 1**, Smith discloses a publication delivery system comprising a printing mechanism for printing a publication (column 5, lines 24-46), and a response system that monitors activity around a physical location of the publication delivery system (column 8, line 66-column 9, line 11), where timing and number of printed publications printed by the printing mechanism is based on the activity level detected by the response system (column 5, lines 24-65, and column 7, line 14-column 9, line 11).

Regarding **claim 2**, Smith discloses the system discussed above in claim 1, and further teaches that the system is a kiosk (viewing computer 48) and the publication is a newspaper (column 3, lines 13-67).

Regarding **claim 6**, Smith discloses the system discussed above in claim 1, and further teaches of network access, the print delivery system using the network access to update content of the publication (column 5, line 24-column 7, line 40).

Regarding **claim 7**, Smith discloses the system discussed above in claim 1, and further teaches of a storage area that stores printed publications (column 7, lines 58-67), and a time stamp reader for reading a time stamp on a most recently printed publication stored in the storage area (column 6, line 11-column 8, line 26), wherein the print delivery system uses the time stamp

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to determine freshness of the most recently printed publication stored in the storage area (column 7, line 52-column 8, line 26).

Regarding *claim 9*, Smith discloses a method for distributing a publication by an automated kiosk (subscriber substation 45), comprising the following steps, in response to a customer ordering a publication, performing by the kiosk, checking a time stamp on a most recently printed publication stored in a storage area (column 6, lines 48-67, and column 7, line 47-column 8, line 26), determining whether a fresher version of the printed publication is electronically available (column 7, line 47-column 8, line 26), when in the determining step it is determined that a fresher version of the printed publication is not electronically available, delivering to the customer the most recently printed publication stored in the storage area (column 5, lines 11-65, and column 7, line 52-column 8, line 65, see Figs. 6A and 6B), and when in the determining step it is determined that a fresher version of the printed publication is electronically available and the customer indicates a willingness to wait for printing, obtaining the fresher version of the printed publication, and printing out the fresher version of the publication for delivery to the customer (column 5, lines 11-65, and column 7, line 52-column 8, line 65, see Figs. 6A and 6B).

Regarding *claim 10*, Smith discloses the method discussed above in claim 9, and further teaches that the determining step comprises contacting, by the kiosk, an electronic publisher of the publication, wherein the electronic publisher performs the following, comparing a checksum for a most recently generated version of the publication with a checksum for the most recently printed publication stored in the storage area (column 6, lines 11-column 8, line 26), and indicating to the kiosk the results of the comparison (column 7, line 52-column 8, line 26).

Regarding **claim 12**, Smith discloses a method for distributing a publication by an automated publication delivery system comprising monitoring activity around a physical location of the automated publication delivery system (column 8, line 66-column 9, line 11), and in response to detection of an increased activity level around the physical location of the automated publication delivery system, printing additional copies of the publication for distribution (column 5, lines 24-65, and column 7, line 14-column 9, line 11).

Regarding **claim 13**, Smith discloses the method discussed above in claim 12, and further teaches that the system is a kiosk (viewing computer 48) and the publication is a newspaper (column 3, lines 13-67).

Regarding **claim 17**, Smith discloses the method discussed above in claim 12, and further teaches that in response to a customer requesting the publication, performing the following steps, checking a time stamp on a most recently printed publication stored in a storage area (column 6, line 11-column 8, line 26), determining whether a fresher version of the printed publication is electronically available (column 7, line 52-column 8, line 26), when the checking step determines that a fresher version of the printed publication is not electronically available, delivering to the customer the most recently printed publication stored in the storage area (column 5, lines 11-65, and column 7, line 52-column 8, line 65, see Figs. 6A and 6B), and when in the determining step it is determined that a fresher version of the printed publication is electronically available, obtaining the fresher version of the printed publication, and printing out the fresher version of the publication for delivery to the customer (column 5, lines 11-65, and column 7, line 52-column 8, line 65, see Figs. 6A and 6B).

Regarding *claim 18*, Smith discloses the method discussed above in claim 12, and further teaches that the determining step comprises contacting, by the automated publication delivery system, an electronic publisher of the publication, wherein the electronic publisher performs the following steps, comparing a checksum for a most recently generated version of the publication with a checksum for the most recently printed publication stored in the storage area (column 6, lines 11-column 8, line 26), and indicating to the automated publication delivery system the results of the comparison (column 7, line 52-column 8, line 26).

Regarding *claim 20*, Smith discloses the method discussed above in claim 12, and further teaches of using network access by the automated print delivery system to update content of the publication (column 5, line 24-column 7, line 40).

Regarding *claim 21*, Smith discloses a publication delivery system comprising a printing mechanism for printing a publication (column 5, lines 24-46), a response system that monitors activity around a physical location of the publication delivery system (column 8, line 66-column 9, line 11), where timing and number of printed publications printed by the printing mechanism is based on the activity detected by the response system (column 5, lines 24-65, and column 7, line 14-column 9, line 11), a storage area that stores printed publications (column 7, line 52-column 8, line 11), and a time stamp reader for reading a time stamp on a most recently printed publication stored in the storage area, wherein the print delivery system uses the time stamp to determine freshness of the most recently printed publication stored in the storage area (column 6, lines 48-67, and column 7, line 47-column 8, line 26), wherein in response to a customer requesting the publication, the time stamp reader checks a time stamp on a most recently printed publication stored in a storage area (column 6, lines 48-67, and column 7, line 47-column 8, line

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26) to determine whether a fresher version of the printed publication is electronically available (column 7, line 47-column 8, line 26), and when a fresher version of the printed publication is electronically available, obtains the fresher version of the printed publication, and prints the fresher version out on the printing mechanism for delivery to the customer (column 5, lines 11-65, and column 7, line 52-column 8, line 65, see Figs. 6A and 6B).

Regarding *claim 22*, Smith discloses the system discussed above in claim 21, and further teaches that the customer is given an option to wait for printing out of the fresher version of the publication or to immediately receive an already printed copy of the publication (column 5, lines 11-65, and column 7, line 52-column 9, line 11).

12. **Claims 1, 3-7, 12, 14-16, and 20** are rejected under 35 U.S.C. 102(e) as being anticipated by Dietz (U.S. Patent Number 6,591,068, cited in the Office action dated 1/26/05).

Regarding *claim 1*, Dietz discloses a publication delivery system comprising a printing mechanism for printing a publication (column 7, lines 18-41), and a response system that monitors activity around a physical location of the publication delivery system (column 6, line 34-column 7, line 41), wherein timing and number of printed publications printed by the printing mechanism is based on the activity level detected by the response system (column 6, line 34-column 7, line 41).

Regarding *claim 3*, Dietz discloses the system discussed above in claim 1, and further teaches that the response system includes a microphone that is used to monitor noise level (column 2, lines 30-56, and column 5, line 55-column 4, line 21).

Regarding *claim 4*, Dietz discloses the system discussed above in claim 1, and further teaches that the response system includes an optical sensor to detect movement near the publication delivery system (column 5, lines 27-67).

Regarding *claim 5*, Dietz discloses the system discussed above in claim 1, and further teaches that the response system includes a motion detector used to detect movement near the publication delivery system (column 5, lines 27-67).

Regarding *claim 6*, Dietz discloses the system discussed above in claim 1, and further teaches of network access, the print delivery system using the network access to update content of the publication (column 5, line 55-column 6, line 21, and column 7, lines 11-58).

Regarding *claim 7*, Dietz discloses the system discussed above in claim 1, and further teaches of a storage area for storing printed publications (column 7, lines 11-41), and a time stamp reader for reading a time stamp on a most recently printed publication stored in the storage area (column 5, lines 45-54, and column 7, lines 18-58), wherein the print delivery system uses the time stamp to determine freshness of the most recently printed publication stored in the storage area (column 7, lines 42-45).

Regarding *claim 12*, Dietz discloses a method for distributing a publication by an automated publication delivery system comprising monitoring activity around a physical location of the automated publication delivery system (column 6, line 34-column 7, line 41), and in response to detection of an increased activity level around the physical location of the automated publication delivery system, printing additional copies of the publication for distribution (column 6, line 34-column 7, line 41).

Regarding **claim 14**, Dietz discloses the method discussed above in claim 1, and further teaches that the monitoring is performed using a microphone to monitor noise level (column 2, lines 30-56, and column 5, line 55-column 4, line 21).

Regarding **claim 15**, Dietz discloses the method discussed above in claim 12, and further teaches that the monitoring step is performed using an optical sensor to detect movement near the automated publication delivery system (column 5, lines 27-67).

Regarding **claim 16**, Dietz discloses the method discussed above in claim 12, and further teaches that the monitoring step is performed using a motion detector used to detect movement near the automated publication delivery system (column 5, lines 27-67).

Regarding **claim 20**, Dietz discloses the method discussed above in claim 12, and further teaches of using network access by the automated print delivery system to update content of the publication (column 5, line 55-column 6, line 21, and column 7, lines 11-58).

### ***Claim Rejections - 35 USC § 103***

13. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

14. **Claims 8, 11, and 19** are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith *et al.* (U.S. Patent number 5,630,103, cited in the Office action dated 1/26/05) in view of Aisenberg *et al.* (U.S. Patent Number 6,209,090, cited in the Office action dated 1/26/05).

Regarding **claims 8, 11, and 19**, Smith discloses the system and methods discussed above in claims 7, 11, and 12, but fails to expressly disclose if the time stamp is a bar code and the time stamp reader is a bar code reader.

Aisenberg discloses a system that includes a time stamp reader for reading a time stamp on a most recently printed publication stored in a storage area (see Fig. 6, column 10, line 51-column 11, line 55), wherein the system uses the time stamp to determine freshness of the most recently printed publication stored in the storage area (see Fig. 6, and column 11, lines 2-55). Further, Aisenberg teaches that the time stamp is a bar code and the time stamp reader is a bar code reader (column 8, line 56-column 9, line 43).

Smith & Aisenberg are combinable because they are from the same field of endeavor, being systems that provide time stamps on printed media. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the bar code and bar code reader taught by Aisenberg in the system of Smith. The suggestion/motivation for doing so would have been that Smith's system would become more efficient, as the system would accurately provide time stamp data in a way that has a reduced number of moving parts and reduced power consumption, as recognized by Aisenberg in column 8, line 63-column 9, line 11. Therefore, it would have been obvious to combine the teachings of Aisenberg with the system of Smith to obtain the invention as specified in claims 8, 11, and 19.

### ***Conclusion***

15. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joe Pokrzywa whose telephone number is (571) 272-7410. The examiner can normally be reached on Monday-Friday, 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward L. Coles can be reached on (571) 272-7402. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Joseph R. Pokrzywa  
Primary Examiner  
Art Unit 2622

jrp

